

HOUSE BILL REPORT

HB 2029

As Reported by House Committee On:
Judiciary

Title: An act relating to duties of the director of the office of public defense.

Brief Description: Requiring the director of the office of public defense to oversee and monitor legal representation of parents in dependency and termination proceedings.

Sponsors: Representatives Kagi, Hinkle, Darneille, Williams, Haler, Rodne, Kirby, Pettigrew, Chase and Kenney; by request of Office of Public Defense.

Brief History:

Committee Activity:

Judiciary: 2/23/05, 2/25/05 [DPS].

Brief Summary of Substitute Bill

- Requires the Office of Public Defense to oversee and monitor legal representation of parents in dependency and termination cases.

HOUSE COMMITTEE ON JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Lantz, Chair; Flannigan, Vice Chair; Williams, Vice Chair; Rodne, Assistant Ranking Minority Member; Campbell, Kirby, Springer and Wood.

Minority Report: Do not pass. Signed by 2 members: Representatives Priest, Ranking Minority Member; and Serben.

Staff: Trudes Tango Hutcheson (786-7384).

Background:

The Office of Public Defense (OPD), created in 1996 and scheduled to sunset in 2009, administers state-funded indigent defense services for criminal appeals. The OPD also recommends criteria and standards for determining and verifying indigency, coordinates with the Supreme Court and the appellate courts to determine how attorney services should be provided, and provides studies and recommendations to the Legislature regarding indigent defense services. The Director of the OPD is appointed by the state Supreme Court and is supervised by an 11-member advisory committee consisting of judicial representatives, legislators, attorneys, and lay people.

Child dependency cases are generally initiated when the Department of Social and Health Services (DSHS) files a petition alleging a child is abandoned, abused, or neglected. The court may enter an order removing the child from the parents' home. The DSHS is required to offer services to parents so they have the opportunity to address their parenting deficiencies and be reunited with their child. In some cases, the DSHS may file a petition to terminate the parent-child relationship, and the court may terminate the relationship if it finds by clear, cogent, and convincing evidence that certain statutory conditions are met.

Parents have a statutory right to counsel in child dependency and termination proceedings. The state is represented by the Attorney General's Office. Defense attorneys appointed by the counties represent the parents.

In 2000, the Legislature appropriated money to the OPD to conduct a pilot program for legal representation in dependency and termination hearings in Benton-Franklin and Pierce counties. In 2001, the Legislature requested that the OPD develop criteria for a statewide program for improved parents' representation in dependency and termination cases.

Summary of Substitute Bill:

Subject to funds appropriated for this purpose, the OPD must oversee and monitor legal representation for parents in dependency and termination cases. Attorneys and agencies providing representation must, subject to appropriated funds, comply with maximum caseload requirements, implement enhanced defense attorney practice standards, and use investigative and expert services in appropriate cases.

Substitute Bill Compared to Original Bill:

The substitute bill makes the bill subject to funds appropriated for the specific purpose.

Appropriation: None.

Fiscal Note: Requested on February 16, 2005.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of session in which bill is passed.

Testimony For: This bill stems from the overwhelming positive results of the pilot program initiated a few years ago. The Attorney General's Office has available to it all the resources and money of the state when going into these dependency cases, and the parents don't have the same resources. There is a significant imbalance that exists. The pilot program enabled parents to get adequate representation because OPD set caseload standards. The pilot program resulted in increased reunifications between parents and children and fewer continuances in court. Fewer continuances means getting the child into a permanent placement faster. The most important thing for children is stability, and it is in the best interest of the child to resolve these cases without unnecessary delays. Improved legal representation and more involvement

by the attorney with the parents under the pilot program improved the parents' abilities to get services and treatment to correct parental deficiencies. In counties without the pilot program, the attorneys for the parents do not have the resources to hire experts or social workers. The quality of representation in the counties are substandard because the attorneys have such heavy caseloads, and they don't have the money to match the state's resources. Providing adequate legal representation for the parents means the courts get to hear from both the state and the parents when making determinations about the child.

Testimony Against: None.

Persons Testifying: (In support) Representative Kagi, prime sponsor; Gary Alexander, Chief Justice of the Supreme Court; Joanne Moore, Director of the Office of Public Defense; Leonard Costello, Kitsap Superior Court; Deborah Lippold, Dependency Unit of the Department of Assigned Counsel; Brenda Lopez; Gail Stone, Washington State Bar Association; Laverne Lamoureux, Children's Administration of the Department of Social and Health Services; and Sophia Byrd, Association of Counties.

Persons Signed In To Testify But Not Testifying: None.